

### **IC 10-18-3**

#### **Chapter 3. City and County War Memorials**

### **IC 10-18-3-1**

#### **Authority to erect memorials; establishing memorial**

Sec. 1. (a) Counties and cities may provide and maintain a suitable memorial to commemorate the:

- (1) courage, valor, and sacrifice of the members of the armed forces who served the United States in World War I or World War II; and
- (2) faithful, loyal, and self-sacrificing service rendered by others to our country in those wars.

(b) A proceeding for the establishment and maintenance of memorials initiated under the provisions of another law may be continued and completed under this chapter without compliance with sections 2 through 5 of this chapter if the board of commissioners of the county or common council of the city has:

- (1) determined to proceed with the memorial; and
- (2) published notice of the determination.

(c) Before proceeding under this chapter, the board of commissioners or common council shall:

- (1) by resolution, declare its intention to establish and maintain a memorial; and
- (2) appoint a board of trustees in accordance with section 6 of this chapter.

*As added by P.L.2-2003, SEC.9.*

### **IC 10-18-3-2**

#### **Memorial committee; report**

Sec. 2. (a) The board of commissioners of a county or the common council of a city shall, on petition of at least one hundred (100) adult citizens of the county or city, appoint a committee to be known as the memorial committee. The appointments may not be made until after notice of the filing of the petition has been published for at least two (2) weeks. Publication must occur once each week in a newspaper of general circulation in the county or city.

(b) The committee must have at least five (5) but not more than fifteen (15) members. Each committee member must be a citizen of the county or city in which the memorial is proposed. The members must be appointed based solely upon their fitness, and the committee must include representatives of educational, benevolent, labor, and other interests.

(c) The members of the committee serve without compensation. However, the board of commissioners or common council may compensate members for necessary expenses in the performance of their duty, including compensation of expert advisers. The board of commissioners or common council may make an appropriation in advance to compensate members for necessary expenses.

(d) The committee shall make a careful study of the subject of a suitable memorial in the county or city and report its conclusions to

the board of commissioners or common council. The report must include:

- (1) the kind of memorial regarded by the committee as appropriate;
- (2) the estimated cost of erection and maintenance;
- (3) the method of control; and
- (4) any other matter the committee considers proper.

The committee shall make the report within six (6) months after appointment, unless a longer time is given by the board of commissioners or common council. A committee that fails to report within the time allowed is immediately regarded as dissolved, and the board of commissioners or common council shall appoint a new committee. A new committee appointed under this subsection is governed by the same rule regarding the filing of a report and dissolution.

(e) A vacancy in the committee shall be filled by the board of commissioners or common council.

(f) A county or city in which a memorial committee has been appointed may not erect or provide for the erection of a memorial until the committee has made its report.

*As added by P.L.2-2003, SEC.9.*

### **IC 10-18-3-3**

#### **Petition to establish memorial; notice of petition**

Sec. 3. (a) Public notice must be provided in the manner set forth under subsection (b) if a petition signed by:

- (1) at least five hundred (500) citizens and taxpayers of a county; or
- (2) at least two hundred (200) citizens and taxpayers of a city; requests the establishment and maintenance within the county or city of a memorial for the soldiers and sailors of World War I. The petition must be addressed to the board of commissioners of the county or the common council of the city and filed in the office of the auditor of the county or clerk of the city.

(b) The auditor or clerk shall:

- (1) publish a notice that includes a copy of the petition or a summary of the petition in a newspaper of general circulation printed and published in the county or city;
- (2) post a notice that includes a copy of the petition or a summary of the petition in at least ten (10) public places in the county; and
- (3) post a notice that includes a copy of the petition or a summary of the petition at the door of the county courthouse.

Notice under this subsection must also include the day the petition will be presented to the board. The day of the hearing must be fixed by the auditor or clerk at least thirty (30) days but not more than forty (40) days after the day of the filing of the petition. Notice of the petition signed by the auditor or clerk must be published for three (3) consecutive weeks and posted for at least twenty (20) days before the day designated by the auditor or clerk for the hearing.

*As added by P.L.2-2003, SEC.9.*

#### **IC 10-18-3-4**

##### **Petition requirements**

Sec. 4. A petition filed under section 3 of this chapter must set forth the character and kind of a memorial proposed to be established or constructed and the probable cost of the memorial to the county or city.

*As added by P.L.2-2003, SEC.9.*

#### **IC 10-18-3-5**

##### **Petition hearing; remonstrance; appeal**

Sec. 5. (a) On the day designated by the auditor or clerk for a hearing under section 3 of this chapter, the petitioners may make proof of the publication and posting of the notice of the hearing and present the petition to the board of commissioners or common council. However, if on or before the day of the hearing a written remonstrance is filed with the board of commissioners or common council, the board of commissioners or common council shall fix a new hearing date at least thirty (30) days but less than forty (40) days after the original hearing date. A written remonstrance must:

- (1) be signed by citizens and taxpayers of the county or city;
- (2) be equal in number to the signers of the petition; and
- (3) ask that the memorial not be established or protest against the kind of memorial proposed and provide reasons for the protest. Before the new hearing date, additional names of citizens and taxpayers may be added to or withdrawn from the petition and remonstrance. A person who signs the petition may not be counted on a remonstrance against it. On or after the first day designated, a taxpayer may be added to a petition and remonstrance for hearing.

(b) If a remonstrance is not filed, the board of commissioners or common council may grant the petition and order the establishment of a memorial, subject to the conditions of this chapter. If a proper remonstrance is filed on the first day designated for the hearing, the board of commissioners or common council may grant the petition on or after the second day of the hearing as fixed by the board of commissioners, unless there is a greater number of qualified remonstrators against the memorial than petitioners for the memorial at that time. If this occurs, the petition shall be dismissed at the cost of the petitioners.

(c) A taxpayer of the county aggrieved by the action of the board may appeal its decision to the circuit court of the county within ten (10) days in the same manner as other appeals are taken from the action of the board. The cause must be tried de novo.

*As added by P.L.2-2003, SEC.9.*

#### **IC 10-18-3-6**

##### **Board of trustees; officers; bond**

Sec. 6. (a) Upon ordering the establishment of a memorial, a

board of trustees must be appointed under this section for the establishment, maintenance, management, and control of the memorial.

(b) The board of commissioners of a county or common council of a city shall name five (5) trustees, not more than three (3) of whom may be members of the same political party. The appointees constitute a board for the establishment, maintenance, management, and control of the memorial. The trustees shall serve as follows:

(1) One (1) of the trustees named by the board of commissioners or common council serves until the first Monday of the following January.

(2) One (1) trustee serves until the first Monday of the second January following the trustee's appointment.

(3) One (1) trustee serves until the first Monday of the third January following the trustee's appointment.

(4) Two (2) trustees serve until the first Monday of the fourth January following the appointment of the trustees.

On the expiration of the term of a trustee, a successor shall be appointed under this section to serve a term of four (4) years. Each subsequent trustee serves a term of four (4) years.

(c) The board of trustees shall elect a president, vice president, secretary, and treasurer. Elections must occur annually on the second Monday in January of each year or as soon after that day as possible. A trustee serves without compensation, except that a trustee is allowed all necessary expenses incurred in the performance of the trustee's duties.

(d) Bond for the faithful and honest performance of a trustee's duties is required. The form and amount of the bond is fixed by the board of commissioners or common council. If a surety bond is furnished by a trustee, the expense of the bond shall be borne by the county or city.

*As added by P.L.2-2003, SEC.9.*

### **IC 10-18-3-7**

#### **Trustees' initial meeting; site selection; plans and specifications**

Sec. 7. (a) As soon as selected, a trustee shall be notified of the appointment by the auditor or city clerk. The auditor or clerk shall fix a date for the trustees to meet for the purpose of electing officers and adopting suitable rules for the government of the board.

(b) The board of trustees shall select a proper site for the memorial. A county memorial must be located at or near the county seat of the county and must have plans and specifications drawn for the establishment of the memorial. The plans and specifications must provide for a memorial of the kind and character ordered established and constructed by the board of commissioners or common council.

*As added by P.L.2-2003, SEC.9.*

### **IC 10-18-3-8**

#### **Bonds to establish memorial**

Sec. 8. (a) The cost of establishing and constructing a memorial

and the expense of maintaining the memorial shall be derived from revenue generated by the memorial. If this revenue is not sufficient, the costs shall be borne by the county or city as provided in subsections (b) and (c).

(b) For the purpose of raising money to pay for the establishment of a memorial, the bonds of the county or city may be issued, not to exceed the amount of:

- (1) the contract price;
- (2) expenses incurred and damages allowed prior to the awarding of the contract;
- (3) a sum sufficient to pay the per diem of the engineer, architect, and superintendent during the construction of the memorial; and
- (4) other estimated costs necessary for the memorial.

The bonds must be in denominations of at least fifty dollars (\$50) each, payable not more than twenty (20) years after the date of issue.

(c) The bonds shall be sold at not less than face value. The proceeds shall be kept as a separate and specific fund to be used by the county or city to pay for construction of the memorial and all proper expenses incident to construction. A payment may not be made for more than eighty percent (80%) of the engineer's estimate of work done by the contractor. The whole amount of the contract may not be paid until the memorial is fully approved by the board of commissioners or common council and the board of trustees and determined to be completed and satisfactory.

*As added by P.L.2-2003, SEC.9.*

### **IC 10-18-3-9**

#### **Special tax**

Sec. 9. For the purpose of raising money to:

- (1) meet the bonds and interest on the bonds; or
  - (2) establish or erect a memorial without the issuance of bonds;
- the county or city authorities shall annually, at the time the general tax levy is made, levy a special tax on the taxable property of the county or city, subject to this chapter. Funds may be raised in yearly amounts until a sufficient amount has accrued to enable the board or common council to proceed with the erection or establishment of the memorial.

*As added by P.L.2-2003, SEC.9.*

### **IC 10-18-3-10**

#### **Limitations on indebtedness; tax exemption**

Sec. 10. (a) A county or city may not issue bonds or any other evidence of indebtedness payable by taxation for the construction of a memorial if the total issue of the bonds exceeds two percent (2%) of the adjusted value of the taxable property of the county or city in which the memorial is located as determined under IC 36-1-15.

(b) Bonds or obligations issued in violation of this section are void.

(c) Bonds issued under section 8 of this chapter are exempt from

taxation.

*As added by P.L.2-2003, SEC.9.*

### **IC 10-18-3-11**

#### **Fund for management, maintenance, repair, improvement, or extension of memorial**

Sec. 11. (a) A surplus remaining from the sale of bonds for the establishment of a memorial must remain as a separate fund for the maintenance, repair, improvement, or extension of the memorial.

(b) Each year the board of county commissioners and the county council or the common council shall provide a fund necessary for the management, maintenance, repair, improvement, and extension of the memorial. Money for the fund shall be raised by taxation in the manner provided by law for other county or city expenses.

*As added by P.L.2-2003, SEC.9.*

### **IC 10-18-3-12**

#### **Tax exemption; establishing memorial and board of trustees**

Sec. 12. (a) If a city desires to erect or establish a memorial and the common council of the city:

- (1) adopts a resolution declaring the desire;
- (2) pledges the city to proceed promptly to erect the memorial in or near the city; and
- (3) files a certified copy of the resolution with the board of county commissioners before the board has made an order granting a petition for a county memorial;

the taxable property of the city is exempt from the taxation authorized in this chapter for the erection, establishment, management, maintenance, repair, improvement, and extension of a county memorial. However, if the city, within one (1) year from the date of the order, has not in good faith begun the erection or establishment of a memorial that costs as much or more than the amount that would be derived from taxation of the taxable property of the city for the erection or establishment of the county memorial, then the exemption fails, and the property of the city shall be taxed for the county memorial in the same manner as other property of the county is taxed.

(b) If a person, an association, or a corporation establishes or erects in a city a suitable memorial for the permanent use of all people of the city as provided in section 15 of this chapter, and the cost of the memorial is equal to or more than the amount that would be derived from taxation of the property of the city for the erection or establishment of a county memorial, then the taxable property of the city is exempt from the taxation authorized in this chapter for the erection, establishment, management, maintenance, repair, improvement, and extension of a county memorial. However, the exemption fails unless the donor files with the board of county commissioners of the county in which a city is located a certificate signed by the donor declaring the intention to immediately begin the establishment or erection of the memorial. The signed certificate

must be filed with the board of county commissioners before the board has issued an order granting a petition for a county memorial.

(c) A corporation, instead of filing the certificate described in subsection (b), shall file with the board a certified copy of a resolution of its board of directors declaring the intention to immediately begin the establishment or erection of the memorial. The resolution must declare that the title to the memorial and the land upon which it is located are held by a board of trustees composed of five (5) members. The board of trustees and its successors are appointed by each donor. If there is a failure to make an appointment, the city council of the city shall have appointive power.

(d) The donors shall create an efficient organization among the people of the city to manage, maintain, repair, and improve the memorial under the powers and restrictions described in section 15 of this chapter. The organization consists of six (6) citizens of the city. Members of the organization:

- (1) serve in a manner and for a term as lawfully provided by the donors;
- (2) act in conjunction with the board of trustees as a board of managers; and
- (3) have full charge and supervision of the establishment and erection of the memorial and its management, maintenance, repair, and improvement.

If the cost of management, maintenance, repair, and improvement exceeds the income derived from the memorial, the costs must be provided by voluntary contributions, donations, or endowments. The board of managers shall organize and adopt rules and bylaws for the conduct of its business as are usually adopted by similar bodies.

(e) If the memorial building and ground cease to be used for this purpose, the trustees shall reconvey the title to the donors, their heirs, successors, or assigns.

*As added by P.L.2-2003, SEC.9.*

### **IC 10-18-3-13**

#### **Powers and duties of board of trustees; superintendent, engineer, or architect**

Sec. 13. The board of trustees have:

- (1) full charge and supervision of the construction of the memorial adopted; and
- (2) authority to employ a superintendent, an engineer, or an architect.

Each person employed must be qualified and experienced and shall give bond for the faithful performance of the person's duties. The form and amount of the bond shall be fixed by the board of county commissioners or common council.

*As added by P.L.2-2003, SEC.9.*

### **IC 10-18-3-14**

#### **Governing law**

Sec. 14. If the erection or establishment of a memorial is governed by another statute, the procedure for erection, establishment, maintenance, control, and management prescribed by the other statute shall be followed instead of the procedure prescribed by this chapter.

*As added by P.L.2-2003, SEC.9.*

#### **IC 10-18-3-15**

##### **Hall, coliseum, or building use; no preferences or admission fee**

Sec. 15. (a) If the memorial established is a hall, coliseum, or building of a similar nature, the hall, coliseum, or building must be used for public purposes of all kinds, but especially for the purpose of perpetuating and keeping those principles alive for which World War I was fought.

(b) Space must be provided for memorial tablets, works of art, relics, souvenirs, war records, and things that are:

- (1) connected with or growing out of the war; and
- (2) appropriate in the building in the opinion of the board of trustees.

Institutes, exhibits, shows, and entertainment of all kinds may be held in the building in the discretion of the board of trustees.

(c) The trustees may let the building for hire and fix a charge for letting the building for hire.

(d) A preference may not be shown to a church, political party, or class of society. However, this provision may not be construed to require or permit the use of the building by an organization or person to promulgate doctrines inimical to the government of the United States or Indiana.

(e) The memorial may not be:

- (1) located, in whole or in part:
  - (A) upon land; or
  - (B) within land;
- (2) connected to land; or
- (3) used in connection with a land enclosure or other structure: for which an admission fee is charged or that is used or controlled by a person or an organization other than the trustees in charge of the memorial.

*As added by P.L.2-2003, SEC.9.*

#### **IC 10-18-3-16**

##### **Trustees' reports and budgets; claims; revenues**

Sec. 16. (a) The trustees shall make an annual report under oath to the board of county commissioners or common council. The annual report must include the activities of the trustees and of the receipts and expenditures of the memorial. The trustees shall prepare an annual budget and estimate for the board of commissioners and county council or common council so that adequate appropriation of funds may be made for the proper maintenance, repair, improvement, and extension of the memorial. A report must be made at other times if required by the board of commissioners or common council.



(b) All claims for expenditures incident to the maintenance of the memorial must be in the form used for the payment of other claims by the county or city. The claims must be:

- (1) approved by the president of the board of trustees of the memorial; and
- (2) allowed by the board of commissioners or common council in the same manner as other claims.

(c) All revenue from a memorial shall be accounted for by the board of trustees and delivered to the county treasurer or city fiscal officer on the first Monday of January and July of each year.

*As added by P.L.2-2003, SEC.9.*

### **IC 10-18-3-17**

#### **Gifts and bequests**

Sec. 17. This chapter does not prevent a gift or bequest by deed, will, or otherwise of property to a county or city for a memorial of the kind described in this chapter. A county and city may accept a bequest and gift. Property given to the county or city in this manner may be used exclusively or in conjunction with other donated property or county or city funds for a memorial. If a gift or bequest is made to a county or city, proper recognition of the gift or bequest shall be shown in connection with the memorial.

*As added by P.L.2-2003, SEC.9.*

### **IC 10-18-3-18**

#### **Memorial art commission**

Sec. 18. (a) The governor may appoint a commission known as the memorial art commission.

(b) The commission must consist of not more than seven (7) qualified persons who serve without pay. However, members are to be paid necessary expenses as certified by the governor to the auditor of state.

(c) The commission shall consider the artistic qualities of a plan for a proposed memorial.

(d) A memorial consisting of a building, monument, statue, tablet, picture, arch, or work of art of any kind may not be erected without first:

- (1) submitting the plans to the memorial art commission; and
- (2) securing criticism and advice from the commission with respect to the memorial.

If a state art commission is established by law, it is ex officio the memorial art commission.

*As added by P.L.2-2003, SEC.9.*

### **IC 10-18-3-19**

#### **Bids and contracts; eminent domain**

Sec. 19. A bid must be received and a contract awarded for the memorial in the same manner as provided by law for a county or city building. Land for a memorial may be acquired under the power of eminent domain in the same manner as other land is acquired by a

county or city for a public building.  
*As added by P.L.2-2003, SEC.9.*

### **IC 10-18-3-20**

#### **Limitation on number of memorials**

Sec. 20. This chapter does not authorize the establishment of more than one (1) memorial at the expense of the county.  
*As added by P.L.2-2003, SEC.9.*

### **IC 10-18-3-21**

#### **Trustee removal; board termination; final report**

Sec. 21. (a) A trustee of a memorial may be removed and the position declared vacant by the board, common council, or judge appointing the trustee upon a showing that the trustee is incompetent, dishonest, or not performing the duties required by:

- (1) law; or
- (2) the governing rules of the board of trustees.

(b) At any time after a memorial building has been:

- (1) erected and used for public purposes described in section 15 of this chapter; and
- (2) fully paid for and all bonds or other indebtedness issued for the construction of the memorial has been retired;

the board of county commissioners or common council may by a two-thirds (2/3) vote of the board of commissioners or common council abolish and terminate the existence of the memorial board of trustees. The board of county commissioners or common council must have a signed petition requesting abolition and termination by all members of the board of trustees and the consent of the circuit court judge of the judicial circuit in which the county or city is situated. The judge's consent must be included on the signed petition. The board of county commissioners or common council shall fix a time not less than thirty (30) days or more than ninety (90) days from the date of the vote when the termination becomes effective.

(c) If the board of trustees has been abolished and terminated, the county auditor or city clerk shall notify the secretary of the board of trustees in writing of the time for the termination of the board of trustees.

(d) The board of trustees shall make a full and final report of its activities in the same manner as other reports required by this chapter. The report must be completed on or before the day fixed in the notice for termination.

(e) On and after the date fixed for the abolition and termination of the board of trustees, the custody, control, and management of the memorial shall be exercised by the officers, board, common council, or committee of the county or city that manages and controls other county or city buildings. The officers, board, common council, or committee of the county or city that manages and controls other county or city buildings shall perpetuate the memorial features of the building.

*As added by P.L.2-2003, SEC.9.*

